

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

**FILED**

AUG 25 2014

PENNY LYNN BOOTH,

Plaintiff,

vs.

CAROLYN COLVIN, Acting  
Commissioner, Social Security  
Administration,

Defendant.

CARMELITA REEDER SHINN, CLERK  
U.S. DIST. COURT, WESTERN DIST. OKLA.  
BY Tush DEPUTY

No. CIV-13-689-W

**ORDER**

On August 8, 2014, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this matter and recommended that the decision of Carolyn Colvin, Acting Commissioner of Social Security ("Commissioner"), denying the Application for Supplemental Security Income filed by plaintiff Penny Lynn Booth be reversed. Magistrate Judge Erwin further recommended that this matter be remanded to the Commissioner for additional administrative proceedings. The parties were advised of their right to object to Magistrate Judge Erwin's Report and Recommendation, but neither party has objected within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Erwin's determination that reversal and remand of this matter is warranted. On remand, the Administrative Law Judge should correctly apply the "treating physician rule" to the opinions of David P. Ellis, M.D., and the Oklahoma Sports Science and Orthopedic Spine Center, see Langley v. Barnhart, 373 F.3d 1116 (10<sup>th</sup> Cir. 2004); 20 C.F.R. §§ 404.1527, 416.927, and should further undertake a proper pain analysis and consider the effect of

the pain Booth was experiencing as well as the effect of the pain medications she was taking in reaching any findings with regard to Booth's residual functional capacity to work full time.

Accordingly, the Court

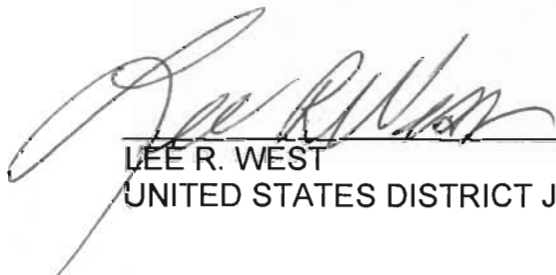
(1) ADOPTS the Report and Recommendation [Doc. 14] issued on August 8, 2014;

(2) REVERSES the Commissioner's decision denying Booth's Application for Supplemental Security Income;

(3) REMANDS this matter to the Commissioner pursuant to sentence four of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for further administrative proceedings in accordance with this Order and consistent with Magistrate Judge Erwin's Report and Recommendation; and

(4) ORDERS that judgment shall issue forthwith.

ENTERED this 25<sup>th</sup> day of August, 2014.



LEE R. WEST  
UNITED STATES DISTRICT JUDGE